

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN BRENT R. CROMLEY**, on March 14, 2005
at 3:25 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Brent R. Cromley, Chairman (D)
Sen. John Esp (R)
Sen. Duane Grimes (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Trudi Schmidt (D)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. John Cobb (R)

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Rita Tenneson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 332, 3/7/2005; HB 581, 3/4/2005;
HB 162, 3/7/2005; HB 88, 3/7/2005
Discussion of Bills: HB 738; HB 737
Executive Action: HB 88; HB 162; HB 332; HB 318

HEARING ON HB 332**Opening Statement by Sponsor:**

REP. ROSALIE (ROSIE) BUZZAS (D), HD 93, opened the hearing on **HB 332**, Supplemental appropriation to fund low-income energy assistance.

This bill provides \$1.85 million as a supplemental appropriation to fund the low-income energy assistance program in the 2005 biennium. Over 21,000 eligible households at 150% poverty level will be served with these dollars. The dollars invested by Montana leverage over \$12 million in federal money from the U.S. Department of Human Services. Since the bill passed the House and came to the Senate, Montana received an additional \$282,249.00 in emergency federal assistance. There is an amendment to reduce the dollars in this bill to \$903,255.00.

Proponents' Testimony:

Jim Noland, Department of Public Health and Human Services (DPHHS), thanked **REP. BUZZAS** for carrying the bill and Governor Schweitzer for proposing the additional money. He handed the Committee material pertaining to **HB 332** and the LEAP program. It shows the number of households being served and supporting information regarding the bill.

EXHIBIT (phs56a01)

Curt Chisholm, Rocky Mountain Development Council, is one of the entities under contract to DPHHS operating LEAP weatherization and energy share programs throughout the State. He is appearing on behalf of all ten Human Resource Councils across the State. He stated that there are no more vehicles alive, during this legislative session, to appropriate available benefit dollars for funding the LEAP program. Energy prices have increased measurably. Shut off notices will be coming from the power companies in April. This money will give an additional benefit to low-income people for survival this winter.

Rachael Habberman, Energy Share, Montana, a private non-profit organization across Montana, read her testimony. In addition, she gave the Committee a fact sheet on Montana's poor and the need for low-income energy assistance.

EXHIBIT (phs56a02)**EXHIBIT (phs56a03)**

Steve Yeakel, Montana Council for Maternal and Child Health, strongly supported the bill. He said there was a real need for this energy assistance.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. SCHMIDT asked **REP. BUZZAS** to restate the amounts she had mentioned regarding funds. **REP. BUZZAS** told her, since the bill passed the House, an additional emergency allotment, from the State, was made in the amount of \$282,249.00. The total amount received from the federal government was \$12,781,000.00. She is asking the Committee to approve \$903,255.00.

SEN. CROMLEY asked about the original \$1.75 million. **REP. BUZZAS** told him the State had received, at the time they put the 1.75 in, \$500,000 federal money. This reduced it to \$1.185 million. Now we are getting the additional emergency money.

Closing by Sponsor:

REP. BUZZAS thanked the Committee and said, when she looked at her energy bill this winter, she about fell out of her chair. She asked them to imagine how low income people felt, when they received their bills, and asked a favorable do pass on the bill.

SEN. WILLIAMS will carry the bill on the Senate floor.

HEARING ON HB 581

Opening Statement by Sponsor:

REP. GAIL GUTSCHE (D), HD 99, opened the hearing on **HB 581,** Revise air quality laws.

REP. GUTSCHE told the Committee the bill allows, but does not require, the Department of Environmental Quality (DEQ) to provide an additional fifteen days for the facility, or the public, to comment on minor air quality draft permits or modifications. It allows anyone filing an administrative appeal of an air quality permit an additional fifteen days to submit the appeal to DEQ.

Proponents' Testimony:

Don Vidrine, DEQ, read testimony supporting **HB 581.**

EXHIBIT (phs56a04)

REP. PAUL CLARK, HD 13, said the bill was at his and **SEN. ELLIOTT'S** request in reference to a community where there was a facility burning 80% coal. The project was presented to them as producing jobs. The company didn't abide by their original permit. People in the community didn't understand the language in the permits. DEQ presented the information to the community but the people didn't have enough time for the comment period. People should have an option to extend their comment period, should they request one.

Ann Hedges, Montana Environmental Information Center, told the Committee that some of the permits are complicated and it takes a lot for the public to read through them and understand them. The department has 40 days to review a complete application and issue a draft decision. Then there is fifteen days for the public to figure out the language in the permit and comment on this. Some permits are very complicated. The Board of Environmental Review, who hears these permits, meets every sixty days. If you are in the wrong cycle of the Board's review, you could be delayed another two months. It is difficult for the public to look at the permit and decide the issues they wish to raise. The time extension makes the process easier for the public.

Opponents' Testimony:

Michael Kakuk, Western Environmental Trade Association (WETA) and Montana Contractors Association, said of the 300 minor permits issued by DEQ, a vast majority of them belong to his contractor members. He was concerned about the lack of criteria or guidance, from the Legislature to the Board, as to when it is appropriate to extend this. His biggest concern was the 15 day extension for filing the affidavit. The affidavit simply explains the objections and was not complicated to fill out. He thought extending by 15 days would delay the process.

Don Allen, WETA, wanted to clarify, for the record, that the Thompson Falls Co-Gen Plant is not a member of WETA.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 7.9}

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. SCHMIDT asked **Mr. Kakuk** what the contractors were afraid of. **Mr. Kakuk** answered they didn't feel there should be an additional fifteen days. **SEN. SCHMIDT** said some permits must be major, what

are they afraid of. **Mr. Kakuk** told her, if it is a major permit, there is a process already in the law allowing for comments. The need hasn't been demonstrated for extending minor sources 60 or 75 days.

SEN. SCHMIDT asked for an example of a major occurrence causing the public to extend the 15 days. **Mr. Kakuk** answered he has never taken a major source application though the process, his clients are a minor source. He thought, as a major source, there is a 75 day period that allows 30 days public comment. **Mr. Vidrine** told her the bill gives 15 days additional public comment for either new applications for minor sources or prior applications for major sources, which was the case in Thompson Falls.

SEN. ESP asked **Mr. Kakuk** if he had an amendment drawn up to take care of his concerns. **Mr. Kakuk** didn't. For a minor source, he didn't think and additional 15 days would be necessary. **SEN. ESP** asked **REP. GUTSCHE** if **Mr. Kakuk's** suggestion would be something she could support. **REP. GUTSCHE** said she would be willing to work on this.

{Tape: 1; Side: B; Approx. Time Counter: 7.9 - 15.4}

Closing by Sponsor:

REP. GUTSCHE said, in the case of the Thompson Falls Co-Gen plant, the Department was requested an additional 15 days by **REP. CLARK** and **SEN. ELLIOTT**. The Department was unable to grant it, even if they wanted to. It was a huge issue for the people in Thompson Falls. There was a complicated change to the permit and they needed more time to look at it. In these cases, you have to set up legal grounds for the appeal and you don't get a second chance at it. An extra fifteen days, to get the appeal in, isn't unreasonable. She said to remember, it was the department that brought this up. It isn't always the public. Sometimes the department needs more time.

SEN. MOSS will carry the bill on the Senate floor.

HEARING ON HB 162

{Tape: 1; Side: B; Approx. Time Counter: 15.4 - 19.4}

REP. TERESA HENRY (D), HD 96, opened the hearing on **HB 162**, School districts to retain copies of immunization records.

REP. HENRY told the Committee the bill is at the request of the Department of Public Instruction. The original record, the blue card, is the permanent record. It follows the student when they change schools. If a student transfers to another school, the original is mailed to the new school and a certified copy is kept behind at the current school.

Proponents' Testimony:

Kathy Warhank, representing the State Superintendent of Schools, said the immunization record is part of the student's permanent record. The bill allows the student to carry the original record with them when they go into the post secondary world. This bill clarifies which record follows the student.

JoAnn Dotson, Nurse, DPHHS, told the Committee they offered their support for the bill. She said it is a housekeeping detail clarifying which record goes where. She handed the Committee a copy of her testimony.

EXHIBIT (phs56a05)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. CROMLEY asked **REP. HENRY** asked if the transfer of school means transfer from one school to another. **REP. HENRY** said the record follows the student, so if a student is moving to another school, it follows the student there.

{Tape: 1; Side: B; Approx. Time Counter: 19.4 - 29}

SEN. ESP asked if this caused an additional cost. **Ms. Warhank** told him there was no additional requirement, the receiving school gets the immunization record. The bill clarifies that the original copy goes with the student and the certified copy stays at the school. **SEN. ESP** wanted to know if this could be a privacy issue. **Ms. Warhank** said no.

SEN. SCHMIDT asked **Ms. Warhank** what if some parents didn't want their child immunized. **Ms. Warhank** told her it was her understanding, if the comments came from Missoula, there is a group in Missoula not wanting their children immunized. There are ways to say you have a religious objection and the school record would show this.

SEN. WEINBERG asked who owned the medical records, for instance, at the hospital. **REP. HENRY** answered he would own the history. The facility would own the records. You have access to this under the HIPPA law, but there is nothing in your records that is public record. **SEN. WEINBERG** wanted to know if the school didn't treat the child, would the school have a right to keep a record. **REP. HENRY** told him the part of the permanent record is a permanent school record and is covered by a different section of the law. The family, or school, would always have this information if the student received their immunization through a health department clinic or provider.

SEN. WILLIAMS asked if there could be a misunderstanding about home-schoolers and this bill, that their records might be in the school. **REP. HENRY** replied that could be the case but, if they aren't in school, there would be no school record.

SEN. GRIMES said one person's concern was that they thought this was the parent's responsibility. **REP. HENRY** said, in the public school there are rules for health care. They practice record keeping regarding immunity or lack of it.

Closing by Sponsor:

REP. HENRY said the intent of the bill is simply to clarify that the original blue copy of the student's immunization record follows the student and the certified copy stays with the school. This does not change the permanent record.

SEN. WILLIAMS will carry the bill on the Senate floor.

HEARING ON HB 88

{Tape: 2; Side: A; Approx. Time Counter: 0 - 9.5}

Opening Statement by Sponsor:

REP. MARY CAFERRO (D), HD 80, opened the hearing on **HB 88**, Eliminate requirement for simplified application form for children's health program.

REP. CAFERRO told the Committee it repeals the universal application for the children's health insurance program (CHIP). The current application, which covers five separate programs, is complicated and difficult for families. If the bill passes, CHIP and Medicaid could share the information electronically. This would streamline the process and save on costs.

Proponents' Testimony:

Chuck Hunter, DPHHS, thanked **REP. CAFERRO** for carrying the bill for them in the House. In 1999, the bill was brought in because families, when applying for kid's health insurance for one program and being turned down, then applying for another one, had to reapply with different forms and applications. The idea was to combine all the forms for all the applications, combining five programs into one, to simplify things, which it didn't. Families now have to fill out a 16-page application, when oftentimes they are only interested in one program. About ten pages are for Medicaid. There are 11,000 kids on CHIP. We are now able to share this information electronically. They did not have the capacity to do this in 1999. If the bill passes, there will be a four page application for CHIP. They will put the four pages on the web and families can download it, making it easier for them.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. WILLIAMS asked **REP. CAFERRO** if Healthy Mothers, Healthy Babies was involved in making the application simpler. **REP. CAFERRO** told her the application she was looking at is the universal application. There is one just for CHIP.

Closing by Sponsor:

REP. CAFERRO said this streamlines the process, for applications in the health care of children.

SEN. WILLIAMS will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 88

{Tape: 2; Side: A; Approx. Time Counter: 9.5 - 18.8}

Motion: **SEN. WILLIAMS** moved that HB 88 BE CONCURRED IN.

Discussion: **SEN. O'NEIL** didn't think there were that many questions in the application. **Mr. Hunter** said there were ten pages to apply for Medicaid. **SEN. O'NEIL** asked when they get on CHIP, and once they are on CHIP they want to transfer to Medicaid, then they have to reapply to go from CHIP to Medicaid.

Mr. Hunter told him when they collect information, either for CHIP or Medicaid, they collect program information for each of the programs. CHIP would not collect information on the asset test, which is what most of what the universal application is for. If a CHIP family looked like it would be a Medicaid family, they would transfer that information directly to Medicaid. Transversely, if the family was a Medicaid family and going to CHIP, everything they needed would be collected from Medicaid electronically and you could make the CHIP determination from this. **SEN. O'NEIL** asked if, when applying for CHIP, would the application provide them with enough information to realize they might qualify for Medicaid and save some CHIP money and get matching dollars. **Mr. Hunter** answered, yes. In both instances that was true. There are a lot of families coming to CHIP because their assets are so small. He can send this right over to Medicaid and, in Medicaid, if their assets are too high, they can transfer them over to CHIP. **SEN. O'NEIL** wanted to know, if the assets on the Medicaid page were the ones that won't have to be used for CHIP. He thought we wouldn't get this information when they apply for CHIP to see if they qualify for Medicaid. **Mr. Hunter** told him if a family is applying for CHIP and CHIP does not have an asset requirement, and the family meets the financial profile between 100 and 150% of poverty, then he enters them into CHIP. If they are at the lower level of 133% or below 100% and they have applied for CHIP, the department can figure out if they are eligible for Medicaid and they will send that application over to Medicaid, allowing them to do a full application.

Motion/Vote: **SEN. WILLIAMS** moved that HB 88 BE CONCURRED IN.
Motion carried unanimously by voice vote. SEN. WEINBERG and SEN. COBB voted aye by proxy.

SEN. WILLIAMS will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 162

{Tape: 2; Side: A; Approx. Time Counter: 18.8 - 25.6}

Motion/Vote: **SEN. GRIMES** moved that HB 162 BE CONCURRED IN.
Motion carried unanimously by voice vote. SEN. COBB and SEN. WEINBERG voted aye by proxy.

SEN. WILLIAMS will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 332

{Tape: 2; Side: A; Approx. Time Counter: 25.6 - 28.7}

Motion/Vote: SEN. SCHMIDT moved TO AMEND HB 332 ON PAGE 1, LINE 10, STRIKE "\$1,185,504", AND INSERT "\$903,255". Motion carried unanimously by voice vote. SEN. COBB and SEN. WEINBERG voted aye by proxy.

Motion/Vote: SEN. SCHMIDT moved that HB 332 BE CONCURRED IN AS AMENDED. Motion carried 7-2 by voice vote with SEN. ESP and SEN. O'NEIL voting no. SEN. COBB and SEN. WEINBERG voted aye by proxy.

SEN. WILLIAMS will carry the bill on the Senate floor.

DISCUSSION ON HB 738

{Tape: 2; Side: A; Approx. Time Counter: 28.7 - 30.4}

SEN. GRIMES suggested pulling out the words, "and the legislative process", on page 2, lines 5 and 6, because the Committee doesn't intend to delegate legislative responsibility. Another suggestion was, under paragraph 3, to make a new "(e) The Commission should recommend the best and most cost effective method of regulating and auditing that service." That is a huge part of provider rates and services and how they are implemented. On page 3, concerning methodology, he didn't think the methodology for how to reimburse providers should be based solely on their profitability. He suggested adding a sentence saying, "The Committee, in determining the methodology, may consider but is not limited to the following factors: level of risk that the provider will assume; the level of complexity of the work; the amount of capital investment; administrative overhead; or any other factors that seem relevant." He wanted them to take a thoughtful look at reimbursement.

SEN. SCHMIDT asked for Jani McCall's response to SEN. GRIME'S suggestions. Ms. McCall thought it would give clarity to the bill. They would be happy to work with Mr. Niss in putting the amendments together. SEN. GRIMES asked if he could turn his suggestions over to Mr. Niss and have the interested parties work with him on this. The Committee agreed.

SEN. CROMLEY suggested on page 2, line 5, that a semicolon be put after defensible process. He asked Ms. McCall to respond to that. She was fine with it.

SEN. O'NEIL offered an amendment, starting on page 2, line 30, saying, "we must include a maximum of fifteen individuals representing two providers, three consumers of provider services, three family members of consumers, and must include one representative of the office of the legislative fiscal analyst, one representative of the Governor's Office on Budget and Program Planning, two Representatives, one from the Democratic Party and one from the Republican Party, and two Senators, one from the Democratic Party and one from the Republican Party, and one employee of the department."

SEN. SCHMIDT asked for **Ms. McCall's** comments on that amendment.

Ms. McCall had no problem outlining this. She thought they wanted to leave the membership open to allow the department to select, but the amendment gave some balance to the membership.

SEN. O'NEIL thought the department should choose who represents the consumers, providers of consumers services and family members of consumers. The Minority Leader of the House should choose the Representatives and Majority Leader of the senate choose the Senators. The Governor's Office should choose the Governor's representative and the department should choose an employee of the department.

Mr. Niss said the bill was patterned after the Mental Health Advisory Commission. He will work on the amendments, along with the help of the interested parties.

DISCUSSION OF HB 737

{Tape: 2; Side: B; Approx. Time Counter: 0 - 20.6}

SEN. CROMLEY reminded the Committee this is the Physician Assistant bill.

SEN. CROMLEY gave the Committee a copy of the information "Section by Section Narrative for **HB 737**" which he had requested. The information is regarding physician assistants, and will assist the Committee in their decisions regarding **HB 737**.

EXHIBIT (phs56a06)

EXECUTIVE ACTION ON HB 318

SEN. CROMLEY told the Committee **HB 318** was amended in Committee, with the exclusion of insulin pumps, brought back again and discussed further, passed, but not actually reported out of Committee, as he held it back for further discussion. Now the Committee needed a motion to reconsider it once again.

SEN. CROMLEY informed the Committee several people suggested there may be trouble if the Committee leaves the insulin pump amendment in the bill.

SEN. O'NEIL said it was important to keep the program going.

SEN. CROMLEY reminded the Committee the program was for limited services.

Motion/Vote: **SEN. GRIMES** moved to RECONSIDER THE MOTION TO CONCUR IN HB 318. Motion carried 7-2 by voice vote with **SEN. MOSS** voting no. **SEN. WEINBERG** voting no by proxy. **SEN COBB** voting aye by proxy.

Motion/Vote: **SEN. GRIMES** moved to remove the previous amendment on HB 317: Strike "EQUIPMENT" page 2, line 14. and on page 2, line 15, Strike "(3)". Motion carried 6-3 by voice vote with **SEN. MOSS** voting no. **SEN. WEINBERG** and **SEN. WILLIAMS** voted no by proxy. **SEN. COBB** voted aye by proxy.

Motion/Vote: **SEN. GRIMES** moved that HB 318 be amended page 2, line 14 to insert, "education, treatment, services," after the word, diabetic. Motion carried 7-2 by voice vote with **SEN. MOSS** and **SEN. WEINBERG** voting no. **SEN. WEINBERG** voted no by proxy. **SEN. WILLIAMS** and **SEN. COBB** voting aye by proxy.

This amendment returns the bill to its original form as it came to the Committee from the House.

SEN. MOSS wanted to reinstate her support for the original amendment to identify insulin pumps as being covered. She said it is a 12 month demonstration project. There is an opportunity to suspend the rules. Her district is made up of low income people. Programs like this are very important to them. She felt we should provide any services we can. She believed her thoughts and concerns were shared by **SEN. WEINBERG**, as well.

SEN. O'NEIL said we are not taking help for diabetic supplies away from diabetic people. When this insurance policy was formulated, under the authority of State Auditor John Morrison, it was formulated for affordable insurance for uninsured Montanans. He was sure the policy was a great asset to these people.

{Tape: 2; Side: B; Approx. Time Counter: 20.6 - 29}

Motion/Vote: **SEN. GRIMES** moved that HB 318 BE CONCURRED IN AS AMENDED. Motion carried 7-2 by voice vote with **SEN. MOSS** and **SEN.**

WEINBERG voting no. **SEN. WEINBERG** voted no by proxy. **SEN. WILLIAMS** and **SEN. COBB** voted aye by proxy.

SEN. GRIMES will carry the bill on the Senate floor.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 1.8}

ADJOURNMENT

Adjournment: 5:20 P.M.

SEN. BRENT R. CROMLEY, Chairman

RITA TENNESON, Secretary

BC/rt

Additional Exhibits:

EXHIBIT ([phs56aad0.TIF](#))